

# **DEPARTMENT OF CALIFORNIA HIGHWAY PATROL**

## **INITIAL STATEMENT OF REASONS**

**JULY 2006**

TITLE 13, CALIFORNIA CODE OF REGULATIONS DIVISION 2, CHAPTER 1 ARTICLE 3  
AMEND SECTIONS 615 THROUGH 619.1, ADOPT SECTION 619.2;  
DIVISION 2, CHAPTER 6, ARTICLE 5.  
AMEND TITLE

### **FLEET OWNER INSPECTION AND MAINTENANCE STATIONS (CHP-R-06-11)**

#### **PURPOSE OF REGULATORY ACTION**

This rulemaking action amends regulations governing the issuance and use of Fleet Owner Inspection and Maintenance Station (IMS) Licenses issued by the California Highway Patrol (CHP). The IMS License authorizes licensed motor carrier terminals in California to self-certify that the fleet owner's vehicles are inspected and maintained in compliance with the applicable requirements contained in the California Vehicle Code (VC), Title 13, California Code of Regulations (13 CCR), and Title 49, Code of Federal Regulations (49 CFR), as applicable.

Many of the proposed changes are the result of the CHP's regulatory review process. This proposal clarifies and makes more specific the criteria contained in the VC and 13 CCR that the CHP uses for accepting and/or rejecting an IMS license application, and creates control mechanisms for monitoring IMS facilities. The procurement price of the IMS vehicle compliance stickers is being increased to reflect the current cost of sticker production/manufacturing, and a new section is added to identify a process by which exemptions from regulation may be requested.

#### **HISTORY/BACKGROUND**

The Fleet Owner Inspection and Maintenance Station (IMS) License program became operative on January 1, 1969, for the purpose of allowing licensed facilities to perform installation, maintenance and repair of lamps, brakes and pollution control devices on the fleet owner's vehicles. The initial inspection and maintenance program also included official lamp, brake and pollution control device installation, inspection, repair, and compliance certification facilities for private motor vehicles in addition to fleet owners. The intent of the program was twofold, to increase the quality of automotive repair (increased public safety) and to help ease the reinspection burden on both fleet owners and law enforcement personnel.

On January 1, 1976, the responsibility for private motor vehicles (primarily passenger vehicles) was transferred to the Department of Consumer Affairs, Bureau of Automotive Repairs. The responsibility for licensing owners of fleets of vehicles listed in 34500 VC has remained with the CHP.

The IMS license regulations contained in 13 CCR 615 through 619.1, as last amended November 24, 1980, are being amended to reflect industry changes, technology changes, and the increase in cost of producing the IMS sticker.

## **SECTION BY SECTION OVERVIEW**

This proposed rulemaking action will make substantive changes to the IMS License Regulations contained in Sections 615 through 619.1, adopt a new Section 619.2, and amend the title of Article 5 in Division 2, Chapter 6.

The following outlines the reasons these specific changes are being made.

### **Article 3. Fleet Owner Inspection and Maintenance Stations.**

#### **Section 615. Scope.**

Subsection (a)(3) is amended to make more specific the parts contained in 49 CFR that apply to vehicle maintenance and eliminate any unintentional reference to other parts of 49 CFR which have no bearing on vehicle maintenance and repair (e.g., driving rules). Subsection (b) is amended for consistency of terminology used in this article.

#### **Section 615.1. Definitions.**

Subsection (a) is added to identify the CHP as the department. Existing Subsection (a) is renumbered as Subsection (b) and contains non-substantive changes to eliminate gender specific references.

Subsection (b) is renumbered as proposed Subsection (j) to place the definitions in alphabetical order, and revised to more specifically identify the types of vehicles to which this article pertains.

Subsection (c) is revised and restructured for clarity. The abbreviation IMS is introduced to identify fleet owner inspection and maintenance stations throughout the rest of the article. Proposed Subsection (c)(2) is added to clarify that as a licensed facility, the IMS licensee can act as an authorized agent of the CHP for the purpose of verifying proof of correction of violations that are cited as correctable offenses on enforcement documents.

Subsection (d) is revised for consistency of terminology within the article.

Existing Subsection (e) is renumbered as Subsection (h) and language is added for clarity.

Existing Subsection (f) is renumbered Subsection (e) and the qualifying word “truck” is deleted from the term “journeyman truck mechanic” to allow more flexibility and more appropriate alignment of the type of journey-level mechanic with the types of vehicles maintained at the facility (e.g., buses). The term “journeyman” is changed to “journey-level.”

Proposed Subsections (f) and (g) are added to clarify the terms “IMS license” and “Safety Compliance Rating,” respectively.

Proposed Subsection (i) is added to identify the term “terminal inspection” and to clarify the categories rated during the inspection. Proposed Subsection (j) is added to clarify that the term “vehicle,” as used in this article, is limited to those vehicles specifically listed in Section 34500 VC.

### **Section 616. Qualifications for License**

Clarifying language is added to the beginning of the section and the section is restructured for clarity. Existing Subsection (a) is renumbered as Subsection (b) and is amended to reflect the change in the existing reference from the “California Administrative Code” to reflect the current title, “California Code of Regulations.” The section is also amended to further specify the requirements of 49 CFR applicable to obtaining and maintaining the IMS license. Existing Subsection (b) is renumbered (c) and is revised for consistency of terminology within the article.

Proposed Subsection (d) is added to recognize that the required publications can be accessed and/or maintained in electronic form including via the Internet. The proposed subsection provides a brief list of Internet addressees for the ease of the user. Existing Subsection (c) is renumbered Subsection (e) and amended to reflect other changes in this Article. Existing Subsection (d) is renumbered (f) and is amended to be more specific regarding the requirements of 49 CFR applicable to obtaining and maintaining the IMS license.

Proposed Subsection (g) is added to identify the qualification criteria used by the CHP to determine eligibility for issuance of an IMS license. The criteria require the carrier to establish and maintain an adequate level of compliance with applicable laws and regulations, such that the CHP believes the licensee has the means, ability and intent to continuously maintain its regulated vehicles in compliance with those requirements.

### **Section 617. Procedures for Licensing.**

The section is revised for consistency and accuracy in its terminology, and to eliminate duplication of requirements already established in statute (e.g., the cost of an initial or renewal license). In Subsection (b), text is added to: incorporate by reference, the format for IMS applications; identify where the fees can be found in statute; and specify that the license expires on the last day of the month one year from the month of issue.

Existing Subsection (c) is amended to identify the requirement for an appraisal of the terminal's maintenance program within 60 days of the date of the IMS application. The 60-day period is consistent with current departmental policy. Existing Subsections (d) and (e) are eliminated as they duplicate statute. Existing Subsection (f) is renumbered (d) and is revised for consistency of terminology within the article.

#### **Section 618. Issuance, Cancellation, or Surrender of License.**

This section is restructured to eliminate duplication of statute, clarify under what terms the IMS license must be surrendered, and what items must be surrendered to the Department.

Subsection (a)(1)(A) maintains the requirement for a journey-level mechanic and clarifies the ability of the Department to take enforcement action, even after a licensee has surrendered the license, for violations which occurred during the period of licensure. Subsections (a)(1)(B) and (C) clarify that a licensee must surrender his or her license if there is an assumption or consolidation of terminals for the purpose of the Biennial Inspection of Terminals Program pursuant to Section 34501.12(a)(2) or (b)(1) VC. Subsection (a)(2) allows the licensee to surrender the license at any time.

Existing Subsection (c) is renumbered (b) and amended for clarity. Proposed Subsection (c) is added to require the licensee to submit the original or legible copy of the IMS sticker register and enforcement document clearance register to the CHP within 14 days upon surrender of the IMS license. The 14-day period is consistent with other time periods for surrendering documents, producing required records not required to be maintained on the premises, and providing adequate time for submission.

#### **Section 619. Station Operation.**

Subsection (a) is amended to eliminate gender specific references.

Subsection (b) is amended to specify that licenses must be displayed in a manner that permits inspection by the Department.

Subsection (c) is amended to clarify that the equipment needed for clearance of enforcement documents must be maintained in good condition.

Subsection (d) is amended for clarity and adds a requirement for maintaining an enforcement document clearance register, establishing the contents of the register and a retention requirement. The register is a control measure intended to ensure licensed facilities are only clearing violations that they are authorized to clear, and only their authorized employees are clearing enforcement documents.

Existing Subsection (e) is renumbered (f) and is amended for consistency of terminology throughout the article.

New Subsection (e) is added to require the licensee to identify, to the Department, those employees who are authorized to certify clearance of violations indicated on enforcement documents. This is a control measure intended to identify the authorized employees.

Subsection (f)(1) is amended to reflect CHP section name and address changes, and to reflect the increased production cost for the IMS sticker. The existing sticker fee was based on 1986 production costs. CHP Fiscal Management Section reports the actual cost to produce the stickers is 75 cents each. Purchase of stickers is not required for operation of an IMS station. Fiscal Management Section indicates 901 stickers were purchased in the 2005-2006 fiscal year.

Subsection (f)(3) is amended to add text to clarify that only vehicles “routinely inspected and maintained at a licensed IMS facility” can receive the IMS sticker, and to specify what parts of 49 CFR that the licensee must be in compliance with. Subsection (e)(5) is amended to more specifically identify component systems which must be in good working order.

Subsection (f)(9) is amended to eliminate the option for placing the new sticker over an expired sticker. This practice made it easier for stickers to be removed from one vehicle and placed on another.

Subsection (f)(10) is amended to add a sticker register retention schedule. The existing subsection did specify a retention schedule for the sticker register, but was subject to interpretation and could be viewed as requiring the register forever, which was not intended. The proposed retention schedule is consistent with similar record retention schedules used by the CHP.

Existing Subsection (f) is renumbered (g) and is amended for consistency of terminology and to include a requirement for all stickers (including those that have expired or were destroyed) to be recorded in the sticker register. This will provide a way to track all of the IMS stickers purchased by the licensee. The lack of such a requirement may permit the fraudulent use of stickers, with no means to account for them.

### **Section 619.1. Inspection by Department.**

**Section 619.1** is amended for consistency in terminology only.

### **Section 619.2. Exemptions.**

Section 619.2 is added to specify how the fleet owner may apply to the CHP for an exemption, and to permit the CHP to issue an IMS license under unique circumstances, such as a change in business organization or other change that would otherwise require the fleet owner to surrender an IMS license. This process would allow the IMS license to be issued in those circumstances where the intent of the regulations and statute are met, but not all of the technical aspects. This process would help to defer unnecessary delays in the ability of a fleet owner to obtain the IMS license and eliminate unnecessary costs to both the fleet owner and the CHP.

## **Division 2, Chapter 6. Title of Article 5.**

The title of Article 5 “Fleet Owner Inspection and Maintenance Stations” is changed to “[Reserved]” to remove it from the table of contents and to prevent it from appearing in text searches of the regulations. The contents of this article were moved to Sections 615-619.1 in a repealer filed with the Secretary of State on September 28, 1978.

## **STUDIES/RELATED FACTS**

None.

## **LOCAL MANDATE**

These regulations do not impose any new mandate on local agencies or school districts.

## **IMPACT ON BUSINESSES**

The CHP has not identified any adverse impact on businesses. Some of the amendments contained in the proposed regulatory action will have a negligible increase in fees and record keeping costs.

## **ALTERNATIVES**

The California Highway Patrol has not identified any alternative, including the no action alternative, that would be more effective and less burdensome for the purpose for which this action is proposed. Additionally, the California Highway Patrol has not identified any alternative which would be as effective and less burdensome to affected persons other than the action being proposed.

### *Alternatives Identified And Reviewed*

1. Amend the existing regulations as proposed.
2. Change statutes to directly require compliance with these amendments. This alternative would eliminate the present state regulatory mechanism which provides for the adoption of regulations governing IMS licenses presently adopted by reference in 13 CCR. The proposed rulemaking action allows the CHP to retain discretion to promulgate regulations and/or exceptions for carriers subject to the Vehicle Code.
3. Make no changes to the existing regulations. This would result in the continued lack of control mechanisms for monitoring the IMS facilities. Without effective control mechanisms it is possible for an IMS licensee to improperly dismiss violations and issue compliance stickers, and thus represent a negative impact on public safety.

Additionally, this alternative would cause the Department to continue to sell IMS stickers at a price which is below the cost of actual production, creating a net loss to the state. Licensees would also continue to be without a process by which exemptions from regulation may be requested.

4. Eliminate program. Elimination of this program would transfer the reinspection responsibilities back to law enforcement personnel and result in an increase in cost to the regulated community.

### **FISCAL IMPACT TO THE STATE**

The Department has determined these regulation amendments will result in:

- No significant increase in costs for the regulated community.
- No significant compliance cost for persons or businesses directly affected.
- No discernible adverse impact on the quantity and distribution of goods and services to large and small businesses or the public.
- No impact on the level of employment in the state.
- No adverse impact on the competitiveness of this state to retain businesses, as there is no statutory mandate for fleet owners to obtain an IMS license.